

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

SECOND APPEAL NO. 581 OF 2005

Ganesh Namdeo Payghan & Anr. vs. Govinda Gayaddin Gupta & Ors.

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
AUGUST 04, 2007.

Heard Shri Kurekar, learned counsel
for the appellants – original plaintiffs.

The suit filed was for partition and
separate possession and for setting aside sale
deed executed by deceased Namdeo on the
ground that said Namdeo had no right to
execute such sale deed.

Shri Kurekar, learned counsel for the
appellants argues that there was no legal
necessity and he contends that it has been
proved on record that Namdeo was addicted to
liquor and as such to quench his thrust, he has
executed the sale deed. He further contends
that provisions of Section 16 of Hindu Marriage
Act, have not been properly appreciated and it
has been dismissed observing that present

appellants/ plaintiffs are illegitimate sons of Namdeo.

I have perused both the judgments. It is apparent that a finding that Namdeo was not drunkard or was not addicted to drink has already been arrived at by both the Courts below and the said finding has not been demonstrated to be perverse. Similarly, it has been concurrently recorded that sale was for legal necessity. This finding is again a finding of fact and it has not been demonstrated to be invalid. In these circumstances, the contention that the suit has been dismissed observing that the present appellants are illegitimate sons of Namdeo has got no relevance as regards present Second Appeal is concerned.

I, therefore, find that no substantial question of law arises in this Second Appeal. The same is dismissed. No order as to costs.

JUDGE